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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re MATHEW K. et al., Persons Coming
Under the Juvenile Court Law.

SAN BERNARDINO COUNTY
DEPARTMENT OF CHILDREN'S
SERVICES,

Plaintiff and Respondent,

v.

ANNA W.,

Defendant and Appellant.

E036062

(Super.Ct.Nos. J181819, J181820 &
J181821)

OPINION

APPEAL from the Superior Court of San Bernardino County. Raymond L.
Haight, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Marsha Faith Levine, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Plaintiff and Respondent.

No appearance for Minors.

Anna W. (mother), appeals from orders terminating reunification services and establishing a permanent plan of long term foster care for her children, Mathew K. (born in 1996), Dean B. (born in 1989), and Sara B. (born in 1987) under Welfare and Institutions Code section 366.26.

FACTS AND PROCEDURAL BACKGROUND

Juvenile dependency petitions filed in April 2002 alleged, among other things, that mother had a history of substance abuse that interfered with her ability to parent her children and that she had failed to provide the children with adequate food. (Welf. & Inst. Code, § 300, subd. (b).) When the social worker arrived at mother's home, she learned that mother was in custody for theft of utilities and for safety code violations. A deputy sheriff reported that the house was a mess, and there was no water, gas, or food. The social worker saw methamphetamine pipes and other drug paraphernalia in the home, and the older children reported that mother used speed all the time, and she had kicked them out of the house a week earlier. Mother admitted that she had a history of drug abuse, but denied that she was currently using drugs or that she had kicked the children out of the house.

At the detention hearing, the court was informed that Sara had run away from foster care, and her whereabouts were unknown, although she was believed to be staying with her 24-year-old stepbrother, with whom she was reportedly having a sexual relationship. The court removed the children from mother's custody.

As of the jurisdiction hearing on in June 2002, Sara's whereabouts remained unknown. The jurisdiction report stated that Dean and Sara had been removed from

mother in 1992 based on failure to protect, emotional damage, and no provision for support. Family reunification services were terminated in 1993. In 1999, mother filed a section 388 petition, and the court ordered a 60-day visit. In the meantime, the children had resided with their maternal grandparents. Later that year, the court ordered the children placed with mother on a family maintenance case plan. Mother also had a voluntary family maintenance case as to Mathew in 1999 and 2000.

At the jurisdiction hearing, the court found the allegations of the petition to be true, as amended.

In an addendum report, the Department reported that Dean had also run away from his foster placement. The social worker stated that a woman had reported that mother had dropped Dean off at the woman's house a few weeks earlier and had asked the woman to care for him, but did not provide any money, clothing, or food for him. The woman did not know where mother was or when mother planned to return.

Mother failed to attend the disposition hearing in July 2002, and the court ordered no services to mother under section 361.5, subdivisions (b)(10) and (b)(13). The court initially indicated that the matter could go to a section 366.26 hearing with respect to Dean and Sara and to a section 366.21, subdivision (e) hearing with respect to Mathew. Then, at the suggestion of the deputy county counsel, the court ordered long term foster care for Dean and Sara, once they were found.

Later, however, after announcing that mother had been located in the courthouse, the court changed its ruling, continuing the matter as to Mathew K., and informing

mother that it had some credible evidence that she had assisted her children “in AWOL-ing.” Mother stated she believed the children were in Orange County.

The court vacated all its orders previously made that day and set a new hearing date for August 2002. The court told mother that if she turned the children in, and if her parents were deemed an appropriate placement, the children would be placed there unless they refused.

At the disposition hearing in August, mother was present in custody – she had been arrested for possession of illegal substances, transportation of illegal substances, burglary, bad checks, and grand theft. Dean and Sara were still on runaway status. The court declared the children dependents of the court and approved a reunification plan for mother.

Sara and her boyfriend/stepbrother were taken into custody and Sara was taken to the home of her grandparents. However, she ran away again after her boyfriend/stepbrother was released from custody. Mathew was living with a paternal aunt and uncle. He had had behavioral problems, including temper tantrums and defiance, and he was receiving weekly counseling. Dean was living with his maternal grandparents and was adjusting well to the placement. He was exhibiting sadness and depression as well as anger toward mother, and he was also receiving regular counseling. Both Mathew and Dean were behind academically, but were working to improve.

Mother visited the boys sporadically, but she refused to accept a drug referral or to engage in substance abuse treatment, and she was uncooperative with the social worker. Neither son wished to be returned to live with mother.

At the six-month hearing, the court found that mother's progress had been minimal. The court ordered that services and visitation would continue.

In February 2003, mother was sentenced to six months at Glen Helen Rehabilitation Center. In March 2003, Sara returned to her grandparents' home. The paternal aunt and uncle had asked to have Mathew removed from their home because of his behavior problems, and Mathew was placed with the maternal grandparents.

At the 12-month hearing in September 2003, the social worker recommended another six months of services. The children remained with their grandparents. Mathew wished to live with his father. Sara had once left home without permission and had failed to return until the next day. Dean was doing well and had bonded with his grandfather. Mother had been released from prison and placed on probation for three years.

Mother's participation in her service plan had declined. She failed to drug test and had not cooperated in following through with referrals.

By February 2004, the relationship between the children and their grandparents had become hostile, and the court ordered intensive home-based services for them.

The social worker's report for the 18-month review hearing stated that mother had been arrested for receiving stolen property, and she was incarcerated. She had failed to complete her reunification plan, obtain a job, secure housing, maintain sobriety, or avoid arrests and convictions. Sara was having behavior problems at home, but she was attending school, and she agreed to start individual therapy. Dean's progress had declined at school and home, and he was failing all his classes except PE. Dean was also

receiving counseling. Mathew was a year behind in his academic performance, and he had been diagnosed with ADHD, for which he had been prescribed Ritalin.

At the 18-month review hearing, mother's counsel requested a continuance because an error in the preparation of mother's transportation order prevented her attendance. The court denied the request.

The court terminated reunification services, ordered long term foster care as the permanent plan, and ordered weekly telephone contact for mother while she remained incarcerated and weekly visitation upon her release.

DISCUSSION

Counsel for mother submitted a no-issue brief under authority of *In re Sade C.* (1996) 13 Cal.4th 952, *People v. Wende* (1979) 25 Cal.3d 436, and *Anders v. California* (1967) 386 U.S. 738, setting forth an integrated statement of the case and facts and asking this court to undertake an independent review of the entire record.

We provided mother with an opportunity to file a personal supplemental brief, but she has not done so.

Even though we are not required to conduct an independent review of the record under *In re Sade C.*, *supra*, 13 Cal.4th 952, we have done so. We have completed that review and have found no arguable issues.

DISPOSITION

The judgment is affirmed.

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HOLLENHORST

Acting P. J.

We concur:

RICHLI

J.

KING

J.